

REMARKS

The Examiner has required restriction between patentably distinct species of inventions wherein the Examiner provides two listings of claims and describes what the Examiner believes is the alleged subject matter of each claim set. However, respectfully, the subject matter of each claim set is not consistent with the Examiner's alleged claimed subject matter characterization of each claim set. For example, for claim set 1, the Examiner includes claims 51-53, 91; 55-59, 79, 86, 92; 88-90 and states such claims are directed to "claiming formation of spacers fluorine or chlorine (sic) and gate oxide and then forming spacers" (pg. 2 of office action). This statement is nonsensical, but by referring to Figs. 1-3 as suggested by the Examiner, the Applicant assumes that the Examiner is attempting to state that fluorine or chlorine is formed in the gate oxide and then spacers are formed. That is, this claim set allegedly recites to a timing relation between forming fluorine or chlorine in the gate oxide and forming spacers.

However, independent claim 51 clearly recites the at least one sidewall spacer comprising fluorine for the providing, wherein the providing limitation is stated as providing fluorine within the gate oxide layer. That is, the spacer is formed **before, not after**, the fluorine is provided. Accordingly, claims 51-53, 91 are not directed to the subject matter as portrayed by the Examiner for species 1 of claim set 1.

Moreover, claims 88-90 are inappropriately listed in the first claim set. Claims 88-90 do not provide any relationship between the timing of providing

fluorine in the gate oxide layer and forming at least one sidewall spacers. Therefore, claims 88-90 are inappropriately included in the first claim set.

Regarding the second claim set, the Examiner states that such subject matter is directed to "claiming formation spacers comprising chlorine and fluorine and then introducing fluorine or chlorine forming spacers into laterally extended gate oxide by annealing (pg. 2 of office action). The recited claims 62-67, 80, 93-95 are inappropriately provided in this list since there is no timing relationship between forming sidewalls and doping the gate oxide layer with at least one of chlorine or fluorine. The Examiner cannot assume, respectfully, that the doping of the gate oxide layer is from the chlorine or fluorine within the sidewall spacers. In fact, the concept of claim differentiation wherein dependent claim 65 (which depends from 62) recites wherein the doping comprising diffusion doping at least one of chlorine or fluorine from the spaces into the gate oxide layer means that the independent claim 62 must be something other than that positively stated in dependent claim 65. Moreover, only claims 66 and 74 recite to an "anneal". For all these reasons, claims 62-67, 80, 93-95 are improperly included in claim set 2.

Respectfully, since the stated subject matter of the two claim sets is inconsistent with the subject matter of the respective listed claims, Applicant respectfully requests the Examiner to call the Applicant to discuss this matter.


Applicant tentatively elects species 2 of claim set 2 for prosecution which includes claims: 62-67, 80, 93-95; 68-75, 81, 87, 96-98.

Further, Applicant herewith submits a duplicate copy of the Supplemental Information Disclosure Statement and Form PTO-1449 filed in this application on January 2, 2003. No initialed copy of the PTO-1449 has been received back from the Examiner. To the extent that the submitted reference listed on the Form PTO-1449 has not already been considered, and the Form PTO-1449 has not been initialed with a copy being returned to Applicant, such examination and initialing is requested at this time, as well as return of a copy of the initialed Form PTO-1449 to the undersigned.

In view of the foregoing, allowance of all pending claims is requested. This application is now believed to be in immediate condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview prior to issuance of any such subsequent action.

Respectfully submitted,

Dated: 12-8-03

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